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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/522,900 | 03/10/2000 | Alison A. McCormick | LSB-001 | 4521 |

7590

04/23/2002

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EXAMINER

BANSAL, GEETHA P

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 04/23/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/522,900

Applicant(s)

Mc Cormick et al

Examiner

Lillian Blum

Group Art Unit

1642

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P r i d f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/3/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disp sition of Claims

- ☐ Claim(s) 1-23, 29, 37-40 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-23, 29, 37-40 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachm nt(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 sheets
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1642

DETAILED ACTION

1. Applicant's preliminary amendmens filed 10/3/2001, 1/11/2002 and 2/6/2002 (Papers No:7/A, 13/B, 16/C) are acknowledged. Accordingly, claims 24-28, 30-36, 41-53 are canceled without prejudice.
2. Applicant's election without traverse of Group I (claims 1-23, 29, 37-40 in Paper No.13/B is acknowledged.
Accordingly, claims 1-23, 29, 37-40 are being examined.

Oath/Declaration

3. The Oath/Declaration is defective and a substitute needs to be submitted. Applicant's claim to priority to the provisional application 60/ 155979 must be claimed under 35 U.S.C. 119(e).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-23, 29, 37-40 are rejected under 35 U.S.C. 102(a) as being anticipated by McCormick et al (submitted in the IDS; January 1999-PNAS vol 96, pp 703-708).

The claims are drawn to a polypeptide self-antigen (encoded by nucleic acid wherein the polypeptide includes an epitope unique to tumor cells, produced recombinantly, duplicates the native epitope and is correctly folded and is immunogenic without adjuvants. Further claims specify the recombinant polypeptide self-antigen is produced in plants and has antigen binding regions of antibody molecule.

Art Unit: 1642

McCormick et al teach the production of 38C13scFv in plants. McCormick et al at page 705, column 2 teach part (b) of claim 1; page 706, columns 1 and 2 teach parts (c) and (d). The production of the nucleic acid molecules encoding the self-antigen is taught in the references cited by McCormick et al (Reference No: 23, 27 also provided) as the methods used by them to produce the polypeptides as recited in claims 4-17, as well as formulating and administering them into subjects as recited in claims 18-23, 29, 37-40.

9. Claim 3 seems to have a typographical error as the correct dependency appears to be from claim 2, and not claim 21. Appropriate amendment to correct this error is requested.

10. No claim is allowed.

11. Papers related to this application may be submitted to Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242 or (703) 305-3014.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Geetha P. Bansal whose telephone number is (703) 305-3955. The examiner can normally be reached on Mondays to Thursdays, and alternate Wednesdays from 7:00am to 4:30pm and alternate Fridays from 7:00am to 3:30pm. A message may be left on the examiner's voice mail service.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Anthony Caputa, can be reached on (703) 308-3995.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

April 22, 2002.

